

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EXIDE TECHNOLOGIES,

Plaintiff,

vs.

Case No. 07-CV-11269
HON. GEORGE CARAM STEEH

KMART CORPORATION,

Defendant.

_____ /

ORDER DENYING EXIDE'S RULE 72(a) OBJECTIONS AND/OR
CLARIFICATION OF MAGISTRATE JUDGE'S
JUNE 19, 2008 OPINION AND ORDER (#36)

Plaintiff Exide filed a "Rule 72(a) Objection And/Or Clarification of the Opinion and Order Granting In Part And Denying In Part Defendant's Motion to Compel" on June 19, 2008, the same date Magistrate Judge Majzoub issued the June 19, 2008 Opinion and Order. The Magistrate Judge's Opinion and Order notes that Exide did not file a response to the motion to compel adjudicated therein. Exide's instant objection does not dispute this finding.

A magistrate judge's decision should not be disturbed on the basis of arguments not presented to the magistrate judge. See Whittum v. Saginaw County, No. 02-10313-BC, 2005 WL 3271810, at *4 (E.D. Mich. Nov. 22, 2005) (citing Jesselson v. Outlet Assocs. of Williamsburg, Ltd. P'Ship, 784 F.Supp. 1223, 1228 (E.D. Va. 1991), and 14 James Wm. Moore, et al., Moore's Federal Practice § 72.11[1][a] (3d ed. 1997)). Exide presented no arguments to the Magistrate Judge. Accordingly, Exide's instant motion invoking objections

under Rule 72(a) will be denied.

Exide also apparently seeks alternative relief before the Magistrate Judge in the form of clarification. Exide has invoked Rule 72(a) and this court's review. The court has treated the motion as such, and denied relief. The court makes no assessment as to whether clarification is necessary by the Magistrate Judge. Such relief should be sought in a *separate* motion.

Exide's motion, construed as objections under Rule 72(a), is hereby DENIED. Exide's "alternative motion" for clarification by the Magistrate Judge is hereby DENIED, WITHOUT PREJUDICE, allowing Exide to file a separate motion before the Magistrate Judge.

SO ORDERED.

Dated: June 23, 2008

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
June 23, 2008, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk